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STATE OF NEW YORK  
OFFICE OF THE INSPECTOR GENERAL

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AN INVESTIGATION CONCERNING ALLEGATIONS  
THAT HERBERT TEITELBAUM, EXECUTIVE  
DIRECTOR OF THE COMMISSION ON PUBLIC  
INTEGRITY, DISCLOSED INFORMATION  
CONCERNING THE COMMISSION'S INVESTIGATIONS

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August 27, 2008  
10:09 a.m.

EXAMINATION BEFORE TRIAL of  
LLOYD CONSTANTINE, held at the offices of  
STATE OF NEW YORK OFFICE OF THE INSPECTOR  
GENERAL, 61 Broadway, New York, New York  
before Wayne Hock, a Notary Public of the  
State of New York.

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A P P E A R A N C E S :

STATE OF NEW YORK  
OFFICE OF THE INSPECTOR GENERAL  
61 Broadway  
New York, New York 10006

BY: JOSEPH FISCH, ESQ.  
ARLENE S. OSTERER, ESQ.

\* \* \*

1

2 MR. FISCH: Today is Wednesday,  
3 August 27, 2008. I'm Joseph Fisch,  
4 Inspector General of New York.  
5 Present with me is Arlene Osterer of  
6 my office. We are in the New York  
7 City office of the IG at 61 Broadway.  
8 Present is Mr. Lloyd Constantine.

9 Mr. Constantine, you're  
10 appearing voluntarily in response to  
11 my telephone call?

12 THE WITNESS: I am.

13 MR. FISCH: And you consent to  
14 this interview being recorded  
15 stenographically?

16 THE WITNESS: I do.

17 MR. FISCH: Would you rise,  
18 please.

19 L L O Y D C O N S T A N T I N E, having  
20 been first duly sworn by a Notary Public  
21 of the State of New York, upon being  
22 examined, testified as follows:

23 EXAMINATION BY

24 MR. FISCH:

25 Q. Mr. Constantine, before we

1                   L. Constantine  
2 began, I showed you a transcript of  
3 testimony of your interview by the Albany  
4 district attorney, Mr. Soares, on  
5 February 25, 2008, and you advised us of  
6 the basic accuracy with the exception of  
7 perhaps one typo and we're going to make  
8 that change.

9           A.     Yeah, I've actually -- I went  
10 through the testimony. It's basically all  
11 accurate. I put a pink tab each place  
12 there was a typographical error. And as I  
13 indicated to your colleague, there's one  
14 typographical error which I think is  
15 substantive. It's a confusion on a name  
16 and I made that correction. So I have  
17 tabbed what appears to be around a dozen.  
18 But in each case, they involve names as  
19 opposed to any difference in fact.

20          Q.     What I will do, Mr. Constantine,  
21 is merely adopt and incorporate your  
22 interview with Mr. Soares as part of our  
23 record and investigation without  
24 objection.

25          A.     Thank you.

1 L. Constantine

2 Q. As I advised you by telephone,  
3 the DA had, by letter of July 26, referred  
4 to us an investigation of allegations that  
5 Herbert Teitelbaum, executive director of  
6 the Public Integrity Commission, had  
7 improperly disclosed information  
8 concerning activities of the commission  
9 and it was in that connection that you  
10 were interviewed by DA Soares.

11 Rather than repeat everything  
12 that's already on the record, I just want  
13 to flesh out some parts of that.

14 You said that the communications  
15 you had with Robert Hermann you divide  
16 into basically two time periods, one July  
17 and August of 2007 and a later one which I  
18 think we've established was November 1 of  
19 2007, all having taken place -- was it all  
20 in New York City or some telephone  
21 conversations while you were in Albany or  
22 what?

23 A. In the earlier time frame, which  
24 is late July and early August of 2007,  
25 those were, as I previously indicated to

1                   L. Constantine  
2     the DA and which has now been adopted in  
3     this record, those were five to six  
4     conversations. Some were in person, some  
5     were on the phone, and I believe that they  
6     occurred both in New York City and in  
7     Albany and, in one case, it occurred when  
8     I was in the city of Skaneateles near  
9     Syracuse upstate and Bob was someplace. I  
10    don't know where he was. He was either in  
11    Albany or New York City.

12           Q.     I believe we established that  
13    that one you referred to a diary that your  
14    secretary had kept, it was August 6, 7,  
15    or 8, around that time?

16           A.     I pinned that down. I was  
17    upstate visiting SUNY campuses, campuses  
18    of the State University of New York for  
19    four days and three nights and so, as I  
20    testified, as I previously testified, we  
21    got it down to that phone call occurred I  
22    believe either on the seventh or the  
23    eighth or the ninth or the sixth, seventh,  
24    or eighth. Whatever. It was accurate in  
25    the transcript.

1 L. Constantine

2 Q. In all such conversations, I  
3 believe you testified that Hermann  
4 prefaced his remarks basically by saying  
5 Herb said or Herb told me this; is that  
6 correct?

7 A. That's correct.

8 And I should also say, just  
9 based upon your recitation, you say that  
10 you have confirmed that the latter  
11 conversation, which I testified occurred  
12 either on October 31 or November 1, you  
13 have ascertained that it was on  
14 November 1. I have no reason to doubt  
15 you. But in my mind, I still -- it was  
16 either on October 31 or November 1.

17 Q. What we said that we were able  
18 to establish, assuming the accuracy of the  
19 swipe card record which is recorded  
20 whenever somebody goes through the  
21 turnstile or whatever one would call it at  
22 633 Third Avenue, we established that he  
23 was in Albany on the 31st of October and  
24 his appearance in New York City was  
25 November 1.

1 L. Constantine

2 A. I have no reason to doubt that.

3 Q. Prior to that, during the five  
4 or six July/August communications, I  
5 believe you said that you had discussed  
6 this with Robert Rifkin because you were  
7 unhappy or disturbed by the fact that  
8 Hermann was coming directly to you?

9 A. I had discussed this with  
10 Richard Rifkin. Richard Rifkin at the  
11 time was special counsel to the governor.  
12 He was working with me and with others on  
13 the responses to the attorney general's  
14 investigation, to the then inspector  
15 general's investigation, and to the  
16 nascent investigation being conducted by  
17 the then Ethics Commission which is now  
18 the Integrity Commission. I had been  
19 designated as special counsel to the  
20 governor. He was already special counsel  
21 to the governor. So there was a small  
22 group of senior attorneys on the second  
23 floor in the executive chamber who were  
24 handling responses to the various  
25 investigations.

1 L. Constantine

2 And after the fourth or fifth of  
3 these communications between Hermann and  
4 me where he was conveying information from  
5 Herb Teitelbaum in the nature of advice to  
6 the executive chamber about how we should  
7 respond more quickly, more expansively, et  
8 cetera, as I testified, after the fourth  
9 or fifth of these I became concerned. I  
10 did not know exactly what the rules were,  
11 but I did know that Richard Rifkin had  
12 been executive director of the Ethics  
13 Commission and Richard Rifkin and I had  
14 worked together in the attorney general's  
15 office many years before.

16 So I went to him and I asked Mr.  
17 Rifkin, I said it's apparent that Mr.  
18 Teitelbaum is talking to Bob Hermann about  
19 their investigation, the details of the  
20 investigation, and it's also apparent to  
21 me that Mr. Teitelbaum is trying to get  
22 messages to me through Bob Hermann and is  
23 that okay, is that kosher. And Rifkin  
24 immediately said no, it's not. It  
25 violates the statute that they are

1                   L. Constantine  
2     operating under. He's talking to somebody  
3     who is not in the executive chamber, he's  
4     talking to somebody who is not involved in  
5     the response to these investigations. It  
6     may be well-motivated. He may think he's  
7     doing somebody a favor but he's violating  
8     his own -- the statute which he's  
9     operating under. You should not be  
10    talking to Hermann about these things. If  
11    and when it occurs again, please direct  
12    Bob Hermann to cease these conversations  
13    with Teitelbaum and to not tell you  
14    anything about it.

15                   And the next time it occurred  
16    was that phone call I got when I was in  
17    Skaneateles and I said stop, I'm telling  
18    you, Bob, Herb Teitelbaum should not be  
19    conveying this information to you and you  
20    should not be telling me these things and  
21    I direct you to cease having these  
22    conversations with him and I direct you,  
23    even if you do continue, I don't want to  
24    hear about it.

25           Q.     You said you told Rifkin that

1                   L. Constantine  
2     Hermann had provided you with information  
3     from Teitelbaum concerning the details of  
4     their investigation?

5           A.     The details of the investigation  
6     in the following sense.

7                   Again, I was one of the  
8     attorneys that was helping to prepare the  
9     these then three investigations: AG, IG,  
10    Ethics Commission, forerunner of the  
11    Integrity Commission. So I was aware of  
12    what was being requested in terms of  
13    documents and I was also aware of which,  
14    if any, witnesses they were seeking to  
15    interview or put under oath. And many of  
16    these conversations involved a particular  
17    category of document or a particular  
18    witness. There were details, as in any  
19    investigation, and you're certainly  
20    incredibly experienced in this, there's a  
21    question of which documents come in, which  
22    witness will come in, what, if anything,  
23    will be the details of the counsel  
24    arrangement. There were issues that arose  
25    from time to time as to whether or not an

1                   L. Constantine  
2 attorney from the executive chamber, from  
3 the governor's office will be able to  
4 prepare a particular witness who is going  
5 to testify before the Ethics Commission,  
6 whether or not an attorney from the  
7 executive chamber would be present at the  
8 interrogation of that witness, and there  
9 was a lot of that going on. Some of these  
10 conversations that apparently -- and I say  
11 apparently because I was never present at  
12 a conversation that Bob Hermann had with  
13 Herb Teitelbaum, I was just getting this  
14 secondhand -- but apparently during a  
15 conversation, there was very specific  
16 discussion of particular witnesses,  
17 particular categories of documents,  
18 particular privileges that the executive  
19 chamber was asserting or thinking of  
20 asserting, and most of these conversations  
21 were, you know, you're taking this  
22 position with respect to this witness,  
23 you're taking this position with respect  
24 to this category of documents, you're  
25 taking this position with respect to this

1                   L. Constantine  
2   asserted privilege, you shouldn't be doing  
3   this, you shouldn't be doing this, you  
4   shouldn't be doing this.

5                   So I think it got -- and again,  
6   I wasn't present there, but given what Bob  
7   Hermann was telling me it was quite  
8   specific as to what the Ethics Commission  
9   was asking for and what we were responding  
10  to.  And as I previously testified, I was,  
11  during this very same time, meeting with  
12  Mr. Teitelbaum at the Ethics Commission  
13  always with one or more other attorneys.  
14  Once I know for a fact I was there with  
15  both Richard Rifkin and Peter Pope.  I  
16  believe on another occasion I was there  
17  with one or the other of those gentlemen  
18  plus Sean  
19  Maloney.  So I was, in an official  
20  capacity, meeting with them.  And this was  
21  going over the same ground as we were  
22  negotiating at that point when this  
23  particular witness would come in, when we  
24  would produce these particular documents,  
25  whether or not we would assert a

1                   L. Constantine  
2 particular privilege, attorney-client  
3 privilege, work product privilege,  
4 whatever the privilege was at that point  
5 in time.

6           Q.     So Herbert was providing you  
7 with specifics concerning names of  
8 witnesses and specific documents or  
9 records?

10          A.     Yes, yes. It was very specific  
11 down to classes of documents, very  
12 specific in terms of the invocation or not  
13 of specific privileges, and I think  
14 frankly this was too early a time where  
15 there was much discussion about a  
16 particular witness. Because at this point  
17 they still wanted to get the documents,  
18 you know, so it was more -- they were  
19 conducting -- the first thing is you get  
20 the documents and then you figure out who  
21 you're going to call in what order.  
22 Although at the earliest point there was  
23 discussion of bringing in the governor.  
24 And we did convey directly to the -- to  
25 Mr. Teitelbaum and to his subordinates at

1                   L. Constantine  
2     the Ethics Commission that the governor  
3     was ready, willing, and able to come in,  
4     but likely both they and we desired that  
5     the governor be the last witness.

6           Q.     During this time period,  
7     July/August, you had meetings with  
8     Teitelbaum, you said you were accompanied  
9     sometimes by Sean Maloney, Rifkin, and so  
10    on.

11                   Did you ever ask Teitelbaum,  
12    take him on the side and say Herb, what  
13    are you dealing with Bob Hermann for, why  
14    not with me?

15           A.     Never, I never did that. And I  
16    believe I previously testified that I  
17    never did that.

18                   I can explain why.

19           Q.     Please.

20           A.     I would not characterize the  
21    relationship between the lawyers doing  
22    this work for the governor and the Ethics  
23    Commission at the earliest point in time  
24    as being an adversarial relationship, but  
25    it at least had some of those contours.

1                   L. Constantine  
2     So that I felt that I was in a traditional  
3     position of, quote, defending an  
4     investigation. While we had been directed  
5     by the governor to give them whatever they  
6     needed, still when you get a subpoena,  
7     when you get a request for documents, the  
8     first thing that you do is you read it and  
9     there was -- although I wouldn't call it  
10    adversarial, I was defending it.

11                   Frankly, I was very puzzled by  
12    this course of conduct where these  
13    meetings were taking place and then these  
14    other conversations were occurring. I did  
15    not want to antagonize my, you know --  
16    again, I don't want to say opponent and I  
17    don't want to say adversary, but the  
18    people on the other side of this thing. I  
19    had real concerns about it. But also  
20    having been in this position myself,  
21    having done government investigations both  
22    on the state level and on the federal  
23    level and having been on all sides of this  
24    thing, I always think it's a bad idea to  
25    pick a fight early on and to say, you

1                   L. Constantine  
2     know, you, you the Ethics Commission, are  
3     violating a rule. So I was reluctant to  
4     take that point. I wanted to get through  
5     this, I wanted to get them what they  
6     needed, I wanted to get the investigation  
7     moving, and perhaps I should have said it.  
8     But I did not.

9           Q.     When Hermann communicated these  
10    conversations, this information from  
11    Teitelbaum, did it include any type of  
12    indication that Teitelbaum intended the  
13    information to go to you? In other words,  
14    he gave it to Hermann and was Hermann's  
15    mission specifically to communicate this  
16    to you?

17          A.     I thought two things were going  
18    on. I thought there was -- they were  
19    talking, that Herb was conveying this  
20    information to Hermann simply to convey  
21    the information to Hermann. As I  
22    previously testified, they're close  
23    friends, they're former law partners, they  
24    live near each other in a housing complex  
25    somewhere near Albany, and they're both

1                   L. Constantine  
2    very experienced lawyers, et cetera, so I  
3    think he was simply talking out of school,  
4    A.   But I also believe, without knowing, I  
5    also believe that there was an intention  
6    here to get information to me through  
7    Hermann that, for whatever reason, he did  
8    not want to simply convey to me when I was  
9    flanked by other attorneys from the  
10   chamber.

11                   To me -- and again, this is rank  
12   speculation, your Honor, but to me there  
13   was a kind of good cop/bad cop element to  
14   this with me being the good cop and with  
15   the other attorneys from the executive  
16   chamber being the bad cop.  I think what  
17   he was saying, my sense of this was,  
18   Lloyd, I know you, I can deal with you, we  
19   are old -- you know, we are the greyer  
20   hair people here, we battled twenty-five  
21   years ago.  I conducted investigations of  
22   his clients when I was in the attorney  
23   general's office and he was in private  
24   practice.  We took a case all the way to  
25   the Court of Appeals.  So I think what was

1                   L. Constantine  
2 going on here is you and I are older,  
3 wiser, smarter, and I'm trying to find a  
4 mechanism to talk to you separately.  
5 You're sitting here with either Maloney or  
6 Pope or Rifkin or Nocenti and they are  
7 young hotheads so I have devised this  
8 mechanism to get this information to you  
9 separately. All of this is sort of what I  
10 would say is well-intentioned, but it is  
11 what it is and I am speculating here.

12           Q.     Now, Hermann was not part of the  
13 executive chamber at that point?

14           A.     No, he was not, and he was not  
15 involved in the defense of these matters.  
16 And the problem -- I don't know whether  
17 you want me to say this -- but the problem  
18 is these investigations, and I think  
19 you're well aware of how many there were.  
20 As we sit here now, it's somewhere, you  
21 know, it's a matter of concern that this  
22 is the second inspector general's  
23 investigation into this broad area, not  
24 the specific area but this broad area.  
25 There was an attorney general

1                   L. Constantine  
2    investigation, there was a senate  
3    investigation committee investigation  
4    which may be ongoing, there were two  
5    separate investigations by the Albany  
6    district attorney, there was the Ethics  
7    Commission investigation which turned into  
8    the Integrity Commission investigation,  
9    and there was a rumor of an investigation  
10   by the State Investigation Commission.  
11   And there were constant leaks in the press  
12   about everything that was going on and  
13   there was a proliferation of  
14   investigations. And the more people that  
15   you talk to, even if they are your best  
16   friend, you can't just do it. You can't  
17   talk to people who are not entitled to  
18   hear things.

19                   My wife and I have both been  
20   government officials. She was at the U.S.  
21   Attorney's office, she was at the Federal  
22   Trade Commission. I was in the governor's  
23   office, I was in the attorney general's  
24   office. At some point I was deputized to  
25   the federal government. And we just had a

1                   L. Constantine  
2 rule in the house we didn't talk to each  
3 other. I did not know what she was doing;  
4 she did not know what I was doing, you  
5 know. You just can't do that stuff.  
6 Whether or not it was well-motivated, it  
7 just was wrong. Again, this is just  
8 opinion on my part.

9                   That's why I went to Rifkin and  
10 said what is going on here, is this okay,  
11 and he directed me and I then directed  
12 Hermann to cease and desist.

13           Q.     Because Hermann was not part of  
14 the executive chamber, his receipt of this  
15 information could not go anywhere through  
16 him. He was not in a position to go to  
17 the governor with this or to go to --

18           A.     Objection. Calls for a legal  
19 conclusion. Of course you're right.

20           Q.     Did Hermann ever tell you why  
21 Teitelbaum was giving him this information  
22 or why he wanted -- why he was giving him  
23 the information?

24           A.     Well, not other than to say Herb  
25 thinks this, it's too slow, you know, you

1                   L. Constantine  
2   ought to be more forthcoming, faster, et  
3   cetera. In other words, again, and  
4   consistent with my speculation, he never  
5   said to me Herb wants to go through this  
6   route through me because he doesn't think  
7   that Pope is forthcoming. He never said  
8   that to me.

9           Q.     Before we began, I showed you --

10          A.     And by the way, I forgot to say  
11   something, which is I am positive that in  
12   the earlier time frame, meaning late July  
13   and early August of 2007, there were two  
14   elements to these communications which I  
15   have secondhand knowledge of, the  
16   communications between Teitelbaum and  
17   Hermann. One is they were talking and the  
18   other one was to get a message to me.

19                   As I previously testified, I do  
20   not believe -- I don't know, I have no  
21   information that the second communication  
22   between Teitelbaum and Hermann was  
23   intended to get to me. It did not have  
24   that sense of Herb thinks this or Herb  
25   thinks that. So in the earlier time frame

1                   L. Constantine  
2 I believe it was clearly intended to get  
3 to me. In the second time frame, I have  
4 no information which suggests that it was  
5 supposed to get to me.

6           Q.     Mr. Constantine, there's an  
7 e-mail from Hermann to you on July 26,  
8 2007 about 3:09 p.m. I showed this to you  
9 before to see whether this would refresh  
10 your recollection about these  
11 conversations.

12          A.     (Reviewing).

13                 Yes, I've read it.

14          Q.     Do you know specifically what  
15 material information that message refers  
16 to?

17          A.     No, I don't.

18          Q.     It would have been along the  
19 same lines?

20          A.     Yes.

21          Q.     Did you make any notes about  
22 these conversations?

23          A.     I did not.

24          Q.     I'd like now to turn to that  
25 second time period which suggests it was

1                   L. Constantine  
2    October 31 or November 1. We think from  
3    the records that it was probably  
4    November 1 based upon his appearance in  
5    New York City on November 1 but not on  
6    October 31.

7                   I'm going to ask you to repeat  
8    some things you've already testified to,  
9    but there's a method to my madness.

10           A.     That's fine.

11           Q.     You're at a meeting, I believe,  
12    and a couple of messages, two messages or  
13    so where Hermann wants to get you out of  
14    the meeting because he had some  
15    information for you.

16                   Can you pinpoint roughly the  
17    time of the day? We have him appearing in  
18    New York on November 1 at about 2:33.  
19    Would it be in the afternoon; do you  
20    recall?

21           A.     I believe so.

22           Q.     Do you remember who you were  
23    meeting with?

24           A.     I don't.

25           Q.     Again, go through it again. I

1 L. Constantine  
2 apologize for the repetition but there's a  
3 reason for it. Walk us through exactly  
4 what happened.

5 A. I'm in the offices at 633 Third  
6 Avenue. I'm having a meeting. I get  
7 several messages from Hermann that he has  
8 to talk to me. These messages are brought  
9 in by hand by my secretary, Jennica  
10 Hawkins I believe, and I said I can't  
11 break out of my meeting. I'm annoyed.  
12 Eventually I break out of the meeting  
13 because he is so insistent, he being  
14 Hermann, is so insistent that I break out.  
15 So I break out and say okay, what is so  
16 important that you're dragging me out of a  
17 meeting that can't wait.

18 Q. Is this the first time you saw  
19 him that day?

20 A. Yes, first time I saw him. And  
21 he says, I just have to get you this  
22 information, it's very important. And I  
23 know you're going to have to reveal this  
24 information to the governor but you cannot  
25 reveal to the governor who gave you the

1                   L. Constantine  
2 information. Again, I'm just very annoyed  
3 about this. And I said, look, tell me  
4 what it is you have to tell me. I did not  
5 promise not to reveal who gave me the  
6 information. And he said and he conveyed  
7 the body of information which I previously  
8 testified to which was as follows: That  
9 the Integrity Commission -- now the  
10 Integrity Commission -- had referred to  
11 the Albany district attorney a matter and  
12 that matter being they had determined, the  
13 Integrity Commission had determined that  
14 sworn testimony that had been given by  
15 Darren Dopp before them was either  
16 perjurious or constituted false swearing  
17 or at least was inconsistent with other  
18 sworn testimony or statements that he had  
19 made and that a referral -- and this was  
20 very specific -- a referral had been made  
21 to the district attorney of this potential  
22 perjury, false swearing, or inconsistency  
23 claim. And that in addition to that, this  
24 was a matter of such gravity at the  
25 Integrity Commission that they had formed

1                   L. Constantine  
2 a special group of five people comprised  
3 of the executive director, Herb  
4 Teitelbaum, and four of the commissioners  
5 including the chairman of the commission,  
6 John Feerick, Loretta Lynch, and two  
7 others who were -- all had prior law  
8 enforcement background and were reliable  
9 in some sense because the Integrity  
10 Commission was aware that there had been  
11 significant leaks of information about  
12 their proceedings and about how they were  
13 doing their investigation that they  
14 recognized that there had been leaks, many  
15 leaks to the press, and therefore they had  
16 created this subgroup within the Integrity  
17 Commission and they were the only people  
18 who knew about this or who had access to  
19 the information.

20                   Actually, in reviewing my  
21 transcript, Hermann at that point said,  
22 and they know who at least one of the  
23 leakers is. And he mentioned -- the guy  
24 was a name Gruenberg who I gather is one  
25 of the commissioners. They know that

1                   L. Constantine  
2 Gruenberg is leaking information to the  
3 press and at least one other commissioner  
4 but there was no other name attached to  
5 the other commissioner. But they know  
6 that Gruenberg is leaking information to  
7 the press and they know there is another  
8 leaker within the commission which is why  
9 they have formed this committee of five to  
10 be the only ones who have access to this  
11 information and this highly sensitive  
12 information and it's been referred to the  
13 DA and I know that you need to know this,  
14 I know that the governor needs to know  
15 this but you can't tell the governor that  
16 I'm the source of the information.

17                   That was the sum and substance.

18           Q.     Did he also mention Howard  
19 Levine, the former --

20           A.     Yes, Levine was one -- I  
21 remember three of the names of three of  
22 the four commissioners. I remember that  
23 Teitelbaum was part of the group of five.  
24 I knew that Howard Levine was. I knew  
25 that Loretta Lynch was and I knew that

1                   L. Constantine  
2   Feerick was. I did not know who the  
3   fourth one was as a result of this  
4   conversation. I have subsequently found  
5   out but I did not know. He did not convey  
6   that to me. He said there's four  
7   commissioners including Feerick, including  
8   Lynch, including Howard Levine. He did  
9   not tell me who the fourth commissioner  
10  was. And then there was Teitelbaum.

11        Q.     Did he mention that Andrew Cuomo  
12  brought a statement -- the statement that  
13  Dopp had given to Andrew Cuomo?

14        A.     Yes. Again, I am not clear  
15  whether -- and he was certainly not clear  
16  as to whether or not this referral was we  
17  think he's perjured himself or we think  
18  he's falsely sworn or we think there's an  
19  inconsistency between those two sworn  
20  statements. And you know better than I do  
21  that these are very, very technical  
22  issues. I've prosecuted perjury and it's  
23  a very, very specific offense. He did not  
24  go into detail with that. If this was  
25  based upon inconsistency or the assertion

1                   L. Constantine  
2   of perjury or false swearing was in  
3   contrast to something else, it was in  
4   contrast to the sworn statement that Dopp  
5   had given to Attorney General Cuomo. You  
6   know and I know that subsequently whether  
7   or not that statement actually was sworn  
8   was called into question in another one of  
9   the mind-numbing, you know, aspects of  
10  this whole thing.

11       Q.    Your earlier testimony said that  
12  he told you that the commission had done a  
13  number of things, a bunch of things.

14                   Did he describe it that way?

15       A.    Yes.

16       Q.    How long did this conversation  
17  last?

18       A.    I believe it lasted around  
19  fifteen minutes.

20       Q.    Fifteen minutes?

21       A.    Yes, I believe so. And I  
22  believe -- although the information I've  
23  just testified to could be, you know,  
24  conveyed in a couple of minutes, I quizzed  
25  him; what do you know, how do you know,

1                   L. Constantine  
2    when did you know it, so I went over it  
3    two or three times. I think I've  
4    previously testified to this, although he  
5    was shaking and distressed by this, I did  
6    not view this as being of, you know, of  
7    the same magnitude that he viewed it. I  
8    mean, it was distressing on some level but  
9    we were in the middle of a very  
10   distressing series of events and a very  
11   distressing year and all of that. For me,  
12   while it was distressing and it was of  
13   concern, I was not shaking at the end of  
14   this conversation. I was still frankly  
15   annoyed that I had been pulled out of a  
16   meeting. I still think even today that he  
17   could have waited until I got out of the  
18   meeting.

19           Q.    You said he was sweating?

20           A.    He was sweating and --

21           Q.    Shaking, and you said he was in  
22   such a state that you thought someone had  
23   died?

24           A.    Yes.

25                   This is a close friend of mine,

1                   L. Constantine  
2    this is a very experienced lawyer, this is  
3    my former boss in the attorney general's  
4    office, this is the former Solicitor  
5    General of the State of New York, this is  
6    a man I've seen argue before the United  
7    States Supreme Court brilliantly, so this  
8    is not a kid. And therefore, when I see a  
9    man of his stature and intelligence and  
10   sensitivity like this, I thought somebody  
11   had died.

12        Q.     You asked him how he got the  
13   information?

14        A.     I don't believe I specifically  
15   did, and I have more to tell you about  
16   that.

17        Q.     Please.

18        A.     Let me tell you everything I  
19   know.

20        Q.     Before we get to the following  
21   week, I want to zero in on November 1.

22        A.     You just asked me what I know  
23   about how Mr. Hermann got the information  
24   which he conveyed to me. This is what I  
25   know, and I know it in three distinct

1                   L. Constantine  
2 periods of time.  
3                   The first is obviously on the  
4 date that he conveyed it to me, which you  
5 have pegged as being November 1, 2007 and  
6 which I previously testified occurred on  
7 November 1 or October 31, 2007. On that  
8 day, he did not say to me Herb told me  
9 this and I did not ask him. And the  
10 reason I didn't ask him is because I knew,  
11 to the best of my knowledge, that the  
12 previous set of communications, meaning  
13 the communications which occurred in July  
14 and August of 2007, had been conversations  
15 between Mr. Teitelbaum and Mr. Hermann and  
16 that was clear and unequivocal. And  
17 therefore when information of a similar  
18 nature was now being given to me, my  
19 assumption was that it had occurred in the  
20 exact same way, that Herb Teitelbaum had  
21 told it to Hermann and that Hermann was  
22 now telling it to me. Although I previous  
23 said I'm not sure in the second  
24 communication it was intended ultimately  
25 to go to me, but I was certain at that

1                   L. Constantine  
2 moment that the information had been  
3 conveyed to Mr. Hermann in a conversation  
4 with Mr. Teitelbaum. So that was my  
5 assumption and that's all I knew that day.

6                   Then roughly a week later I met  
7 with Bob Hermann and Bob --

8           Q.     Hold on for a minute.

9                   Getting back to November 1, did  
10 he mention any people in the chamber who  
11 might have been suspected of being  
12 complicit in the composition of Dopp's  
13 statement to the attorney general?

14          A.     No. But I was fully aware of --  
15 I knew how Dopp's statement had been put  
16 together. I wasn't myself part of that  
17 group. I wasn't involved in it. But I  
18 knew because I had been around.

19          Q.     Did you ask him at this time why  
20 he did not want anyone to know that he was  
21 the source of the information?

22          A.     No. What I did say to him is  
23 how in the world can you expect me to walk  
24 into Eliot, to the governor, and tell him  
25 this. I said there's a metaphysical

1                   L. Constantine  
2   possibility that he won't ask me how I  
3   know but he's a good lawyer and he's going  
4   to say how do you know this. I did say to  
5   him that's really a ridiculous request  
6   that you ask me to, you know, to not  
7   convey how I got this information and I  
8   didn't make a promise. I also didn't  
9   promise I would reveal it but I did say to  
10  him, look, unless I am completely wrong  
11  here, when I convey this information to  
12  the governor, which I will, he's going to  
13  ask me how I got it.

14        Q.     Mr. Constantine, at your earlier  
15  testimony before the DA, you said he told  
16  me he came by this information because  
17  Herb Teitelbaum conveyed it to him.

18        A.     He didn't specifically say that  
19  to me. That was my surmise based on this  
20  prior course of conduct.

21        Q.     There came a time when you told  
22  the governor?

23        A.     As I previously testified, I did  
24  two things. I called ethics counsel, a  
25  guy name Lieberman, Hal Lieberman, for

1                   L. Constantine  
2    advice on how to proceed.  And I also told  
3    the governor.  I don't know in which order  
4    I did this, but I did those both forthwith  
5    right that day.

6           Q.     Did you reveal to Lieberman or  
7    to Spitzer the information came from  
8    Hermann?

9           A.     Absolutely, yes.

10                  My concern, frankly, was how to  
11    proceed with the district attorney.  I  
12    thought once we were in possession with  
13    this information -- I should step back for  
14    a second.

15                  While this was all going on I  
16    thought that the Integrity Commission  
17    could have just called us up and said we  
18    have referred this to the district  
19    attorney.  It didn't seem to me -- again,  
20    there's not a lot of things in this whole  
21    course of conduct which make a lot of  
22    sense to me, your Honor, but that in  
23    particular -- again, I did not -- so I was  
24    just confused.  And when I am confused  
25    about such things, I call ethics counsel.

1                   L. Constantine  
2 This was an attorney who had been on  
3 retention to my law firm as ethics  
4 counsel, this is an attorney that I had  
5 retained when I ran Eliot Spitzer's  
6 transition to attorney general of New  
7 York, this was a lawyer that I recommended  
8 that the transition retain when -- in the  
9 transition to governor and I think we did  
10 use him for some -- so this was an  
11 experienced ethics lawyer.

12           Q.     I know the name. He had been  
13 with the disciplinary committee.

14           A.     He was the head of the First  
15 Department disciplinary committee.

16                   I said, what do I do with this?  
17 I don't even know how to think about this,  
18 what to do. So I went to him and I went  
19 to Eliot and I told them exactly what  
20 Hermann had told me precisely as best as I  
21 could remember it and it was pretty good  
22 because it was the same day.

23                   MR. FISCH: I want to take a  
24 five-minute break.

25                   (Whereupon a break was taken)

1 L. Constantine

2 Q. The November 1 meeting that you  
3 described, you did not have a particular  
4 appointment with Herbert that day; did  
5 you?

6 A. No. When he used an office  
7 at 633, we would almost inevitably run  
8 into each other or find an opportunity to  
9 grab a cup of coffee or something like  
10 that or have lunch.

11 Q. There is an e-mail. Apparently  
12 he was thinking of seeing you around 3:00.

13 A. (Reviewing).

14 I don't know how to construe  
15 this because I don't know whether --

16 Q. It may have been unrelated.  
17 Take a look at that.

18 A. (Reviewing).

19 My assumption is that this  
20 e-mail, which is from Jennica Hawkins to  
21 Lloyd Constantine and Dan Doktor and  
22 Haley Plourde-Cole, that all of this  
23 relates to these issues having to do with  
24 IOLA and civil legal services.

25 Q. So he was going to meet with you

1 L. Constantine

2 on another matter that day?

3 A. Yes, but the reference here on  
4 this e-mail is to 10/31. I'm confused  
5 whether or not this relates to a 3:00 slot  
6 in New York City the next day or a 3:00  
7 slot in Albany that day. I'm not sure.

8 Q. It said that Hermann asked that  
9 he meet with you tomorrow in the city at  
10 3:00 p.m. as he'll be in Albany at 10:00  
11 when you had an original scheduled  
12 meeting.

13 A. I believe that all of that then  
14 relates to these issues (referring).

15 Q. I ask -- so it does appear that  
16 he may have had some other purpose in  
17 meeting with you on the first in New York?

18 A. Yes. We had a number of  
19 projects that we were working on together  
20 and at that point in time the one that was  
21 most active was the attempt to, as I told  
22 you during our informal conversation, was  
23 the attempt to revamp the IOLA board and  
24 to create a de facto office of civil legal  
25 services in the state to coordinate all of

1 L. Constantine

2 the various funding streams.

3 Q. So it would appear that,  
4 unrelated to the conversation he had with  
5 you about the ethics committee, he did  
6 want to meet with you?

7 A. Yes, and we were frequently  
8 meeting and dealing with these issues  
9 almost on a daily basis.

10 Q. I ask because, and this is  
11 highly speculative, did the condition he  
12 presented to you, the nervousness,  
13 shaking, and such urgency, give you the  
14 impression that he had just come by this  
15 information shortly before he reached out  
16 to you?

17 A. Yes. I cannot imagine that  
18 anybody that nervous could have contained  
19 this information for a very long period of  
20 time, but I don't know. That's rank  
21 speculation.

22 I'd like to, if I could, tell  
23 you about the second and third waves of  
24 this.

25 Q. I thought you'd never ask.

1 L. Constantine

2 A. And then I think you can ask  
3 some questions on that.

4 And I am time constrained, so if  
5 I have to come back, I will.

6 So now after that day,  
7 November 1, around a week later I met with  
8 Hermann. And, as I previously testified,  
9 at that meeting he said I know Herb  
10 Teitelbaum really well. He is capable of  
11 almost anything to protect himself.

12 Q. Is this something he came out  
13 with before you even said anything?

14 A. Well, I don't know, but we were  
15 talking about this. We were talking about  
16 the information he had conveyed to me the  
17 week before and there had been some  
18 developments in the week after.

19 Q. You said before the DA that you  
20 had asked him why it was so important not  
21 to reveal him as the source.

22 A. Yes.

23 Q. So was it in response to a  
24 question or did he just come breaking down  
25 your door to tell you this?

1 L. Constantine

2 A. We might have been meeting with  
3 something else. Remember, he did not work  
4 on the second floor, he worked in one of  
5 the towers. He had to come over to my  
6 office and we might have talked about  
7 other things as well. But clearly he  
8 wanted to talk about this.

9 As I previously testified to  
10 you, again, I did not view all of this  
11 information as being nearly as earth  
12 shaking as he did. It was concerning, it  
13 was troubling, but it wasn't, you know,  
14 the end of the world as far as I was  
15 concerned. And the subject matter of why  
16 you, who are so experienced and such a  
17 sophisticated lawyer, why is this, you  
18 know, of such troubling magnitude to you  
19 and why you're so concerned about your  
20 identity being revealed on this. And it  
21 was in the context of that conversation  
22 that he said Herb Teitelbaum is capable of  
23 doing almost anything to protect himself  
24 and I said, like what. And he said he's  
25 capable of saying that I stole this

1                   L. Constantine  
2 information as opposed to him telling it  
3 to him. And I said, you think that of  
4 your best friend or one of your best  
5 friends? I said, that's pretty shocking,  
6 Bob. And that's all.

7                   Now, that's all except, as I  
8 previously testified, when he said this to  
9 me, it planted a seed of doubt in my mind  
10 as to exactly how this information had  
11 gotten to him. In other words, when I was  
12 questioned about this at the DA's office,  
13 I volunteered this information. In other  
14 words, as I've testified to you today, my  
15 assumption was Herb Teitelbaum had told  
16 him this information and then he told it  
17 to me. By virtue of this additional  
18 communication which occurred around a week  
19 after October 31 or November 1, I had a  
20 little seed of doubt in my head as to  
21 exactly how this information had gotten to  
22 me and therefore I felt duty bound to tell  
23 the district attorney about it without  
24 drawing any conclusions. And that's all I  
25 knew as of that. All I knew is that he

1                   L. Constantine  
2   said that Herb Teitelbaum is capable of  
3   saying that I essentially stole the  
4   information or snooped around and got the  
5   information.

6                   On a number of occasions after  
7   this -- now we're in a third time frame --  
8   people in the executive chamber who were  
9   still involved in the responses to all  
10  these investigations, without explicitly  
11  revealing anything, sort of insinuated to  
12  me Lloyd, you just made an assumption that  
13  Herb Teitelbaum told it to Hermann and  
14  Hermann told it to you.  And that built  
15  upon this little doubt that I had based  
16  upon this conversation with Hermann.  So I  
17  was starting to get the impression that  
18  the way that that latter information about  
19  the referral to the district attorney and  
20  the composition of this committee of five,  
21  et cetera, that that information might not  
22  have gotten to Hermann precisely in the  
23  way that I assumed it had.

24                   So I called up Hermann, you  
25  know, just tell me.  I said, did Herb

1                   L. Constantine  
2   Teitelbaum tell you this stuff or did you  
3   find out about this in some other way, and  
4   this is what he told me.  And I went back  
5   over the whole course of events, you know,  
6   you told me this stuff, a week later you  
7   -- just in the same way that I've recited  
8   it to you today and the same way that I  
9   recited it to the district attorney's  
10  staff back I believe in February of this  
11  year.  I said, come on, what happened  
12  here.  And this is what he told me.

13                   What he told me was that he had  
14  gotten this information in two ways; that  
15  when he was at Teitelbaum's house, there  
16  was a file or a piece of paper, you know,  
17  on a surface and that he wasn't snooping  
18  around -- this is what he said -- but this  
19  piece of paper was out there conspicuously  
20  and he looked at it and he learned some of  
21  this information and that he got some of  
22  the information from Teitelbaum in the  
23  sense that Teitelbaum told him that a,  
24  quote, referral had been made to the  
25  district attorney.

1 L. Constantine

2 So the only thing that I know is  
3 what I've heard and in this last  
4 conversation that I had with Hermann he  
5 said Teitelbaum told me there had been a  
6 referral and some of this information I  
7 got by looking at this file or this piece  
8 of paper that had been left on this table  
9 or on this desk.

10 And in teeing all this up to  
11 him, I did whatever exactly what you said,  
12 I said, Mr. Hermann, you told me this, you  
13 told me that, and you told me this, and  
14 one of the things I mentioned was the  
15 referral and other thing I mentioned was  
16 this committee of five. You told me that  
17 day on either October 31 or November 1  
18 about the referral and that they had  
19 established this committee of five to deal  
20 with this information exclusively and he  
21 said, oh, no, no, that happened much  
22 earlier, meaning the committee of five had  
23 been established sometime well before this  
24 referral. I said, well, you told it to me  
25 that day. He said, I don't remember that,

1                   L. Constantine  
2 but that happened a long time before.  
3                   From all of this, your Honor,  
4 this is what I believe happened. I  
5 believe that, after I instructed Hermann  
6 to stop talking to Herb Teitelbaum which  
7 occurred on the sixth, the seventh, the  
8 eighth, or 9th of August, I believe they  
9 continued to talk about these issues.  
10 Sometime between the beginning of August  
11 and the end of October they had a  
12 conversation and Teitelbaum told him about  
13 the formation of the group of five and the  
14 reason for that was the leaks that had  
15 been occurring at the Integrity Commission  
16 and had told him who those people were.  
17 He, because I directed him to shut up and  
18 not talk to him any more and not to tell  
19 me about it, never told me about that.  
20 But when this latter information came to  
21 him about the referral to the district  
22 attorney, he just that day disgorged  
23 everything he knew and it was my  
24 assumption that this group of five had  
25 been constituted for the purpose of

1                   L. Constantine  
2   dealing exclusively with this referral  
3   when, in fact, it had been created  
4   sometime earlier to deal with this  
5   institutional problem that they had at the  
6   Integrity Commission about leaks.

7                   Now, I realize that  
8   unfortunately your witness today has now  
9   become, you know, his own private  
10  inspector general in coming to this  
11  conclusion, but that is my conclusion here  
12  that that's how this whole thing happened.  
13  As I sit here, that's what I believe  
14  happened.

15       Q.     You buy that?

16       A.     Excuse me?

17       Q.     Do you buy that explanation?

18       A.     It's the best that I have.  I  
19  don't know.

20       Q.     Why then would he tell you on  
21  that second occasion that Teitelbaum is  
22  capable of anything, he will be saying  
23  that he didn't tell me the information,  
24  that he got it this other way?  Why  
25  would --

1 L. Constantine

2 A. I understand what you're saying.

3 Q. Why not just --

4 A. A lot of this is all very  
5 embarrassing to Teitelbaum, I believe, and  
6 it's embarrassing to Bob Hermann. I don't  
7 think any of these people are bad people.  
8 I think that they're both, you know, good  
9 lawyers who've had good careers and all of  
10 that. And through a series of  
11 circumstances and some carelessness, all  
12 of this occurred. But my best -- again, I  
13 was never present when any of these  
14 conversations occurred or any of this  
15 looking at documents occurred so I don't  
16 know, but my Inspector General Lloyd here,  
17 I've given you my best on this. In July  
18 and in early August, they were having a  
19 series of conversations; that the  
20 conversations that Teitelbaum was having  
21 with Hermann was A, he was telling his  
22 best friend about what his job is and what  
23 he's doing and B, he was trying to get a  
24 message separately to Lloyd Constantine.

25 In the latter time frame what I

1                   L. Constantine  
2 believe happened was that Hermann saw this  
3 stuff by reading it and probably said  
4 something to Teitelbaum saying oh, my God,  
5 look at this and Teitelbaum said, well,  
6 it's been referred to the district  
7 attorney. And that between those two time  
8 periods, they had continued to discuss  
9 this and some weeks or months earlier than  
10 that this group of five had been formed  
11 and that was another thing that had  
12 happened at the Integrity Commission which  
13 Teitelbaum told Hermann about. And that  
14 is my surmise. But that's what I think  
15 happened.

16           Q.     When you were interviewed by the  
17 DA and referring to this date that we  
18 believe may have been November 9, that's  
19 when he was next in New York, "you asked  
20 him why he did not want himself identified  
21 as the source. Then he said something  
22 which I'll never forget. And he said, I  
23 know Herb Teitelbaum. He said, I know him  
24 really well and I know what he's capable  
25 of doing when he's backed into a corner.

1                   L. Constantine  
2 I said, what is he capable of doing. He  
3 said, he's capable of doing anything to  
4 protect himself. I said, like what. He  
5 said, he's capable of claiming that he  
6 didn't tell me any of this stuff; that I,  
7 you know, came into possession of it some  
8 other way. I said, like what. He said,  
9 like I broke into his apartment and, you  
10 know, saw it on his desk or, you know,  
11 somehow came into it. In other words, he  
12 didn't tell it to me, I stole the  
13 information."

14                   When he said he's capable of  
15 saying that he did not tell me this  
16 information, isn't that an affirmation  
17 that he did? He's worried that he's going  
18 to say something other than what's  
19 factual.

20           A.     And that's why, you know, with  
21 both the seed of doubt that had been  
22 placed in my head as a result of that  
23 conversation and people with sort of body  
24 language at the governor's office sort of  
25 suggesting to me that I had jumped to an

1                   L. Constantine  
2    assumption about this information. Nobody  
3    said to me, hey, you made a leap here  
4    which was counterfactual because, in fact,  
5    the information that Hermann got in the  
6    latter time frame was information that he  
7    simply picked up a file and read it.  
8    Nobody said that to me. But they  
9    insinuated that to me. It was insinuated  
10   to me by people in the executive chamber,  
11   in counsel's office.

12                   This is of great concern to me.  
13    People's reputations are at stake here.  
14    So I just called up Hermann and said tell  
15    me what happened. What he told me was I  
16    read this file, it was open and out there  
17    and I wasn't snooping around but I read  
18    this file and I got this information and I  
19    had a brief conversation with Teitelbaum  
20    and Teitelbaum told me that it had been  
21    referred to Soares' office and that he  
22    challenged me about the part having to do  
23    with the group of five. He said, did I  
24    tell that you day? Because that happened  
25    months before. I said, well, it might

1                   L. Constantine  
2    have happened months before but you told  
3    it to me that day. It was my assumption  
4    that this group had been formed to deal  
5    with this highly sensitive information  
6    which was getting you to shake all over  
7    the place.

8           Q.     Mr. Constantine, a little while  
9    ago you had the impression, in response to  
10   a question from me, that he had just  
11   learned that information and that's why he  
12   was in a state of agitation.

13          A.     I believe the information that  
14   he had just learned was of the referral.  
15   To him the part which was -- he's  
16   explicitly said this, the former  
17   communications director to the governor is  
18   now under investigation for a felony at  
19   the DA's office. He viewed this as being  
20   World War III. And I did not view it as  
21   being of that magnitude. Frankly we all  
22   bring into any experience our own  
23   experience. I didn't think this was a  
24   charge that would hold up. I thought all  
25   of this involved nuance and shading of

1                   L. Constantine  
2 testimony and all that. But he thought it  
3 was, you know, a terrible and dire  
4 circumstance and I believe, when he  
5 revealed that to me, he had just come into  
6 possession of that information.

7           Q.     The referral?

8           A.     Yes. But I believe now, based  
9 upon the subsequent conversation, that he  
10 learned about the group of five sometime  
11 after early August and before then. But I  
12 don't know.

13          Q.     From Teitelbaum?

14          A.     I believe so.

15          Q.     So what was it that he learned  
16 on the piece of paper or the notes or the  
17 file, what did he learn? You said that  
18 the group of five --

19          A.     I don't know, I don't know. I  
20 believe that it had to do with the, you  
21 know, with the referral of this  
22 investigation. He might have seen  
23 something on that piece of paper. I just  
24 don't know.

25          Q.     But he decided, as I understand

1                   L. Constantine  
2     it, the information into two sources. The  
3     referral came directly from Teitelbaum;  
4     correct?

5           A.     Uh-huh. Or was confirmed by  
6     Teitelbaum. In other words, the piece of  
7     paper might have said, you know, we've  
8     referred this over to Soares and he might  
9     have confronted Teitelbaum with it and  
10    Teitelbaum might have confirmed it.

11                   What he did was he confirmed to  
12    me that Teitelbaum said something to him  
13    which was either conveyed or confirmed the  
14    referral from the Integrity Commission to  
15    the DA.

16           Q.     But that could not have happened  
17    outside your office on November 1 that  
18    caused him to be so agitated.

19           A.     I don't know. I don't know when  
20    it happened. I assumed it happened. My  
21    sense of this is that this piece of paper  
22    that he read and this brief conversation  
23    he had with Teitelbaum was in Teitelbaum's  
24    apartment.

25           Q.     An awful lot of information he

1                   L. Constantine  
2   conveyed to you on November 1. You said  
3   it took fifteen minutes with in and out.  
4   The names of the special committee, the  
5   Cuomo reports, statements to Cuomo, all of  
6   that?

7        A.     Right.

8        Q.     Does he wear glasses, by the  
9   way?

10       A.     Who?

11       Q.     Hermann.

12       A.     I believe so. I believe so.  
13   That's one of these things, you know, you  
14   know somebody so well that you don't  
15   notice what they're wearing. I believe he  
16   does.

17       Q.     Have you ever spoken to  
18   Teitelbaum about this?

19       A.     Nothing, never. I've met with  
20   Teitelbaum several times. I met with him  
21   during Christmas just before he went to  
22   South America on vacation with his wife  
23   and I met with him again with John Feerick  
24   in February at Feerick's offices over near  
25   Fordham University.

1 L. Constantine

2 Q. On November 1, and I think you  
3 can accept --

4 A. Yeah, I will.

5 Q. On November 1, after you learned  
6 the information and communicated it to  
7 other people, Lieberman, Nocenti, Pope?

8 A. I never talked directly to  
9 Nocenti about this.

10 Q. Pope?

11 A. I talked to the governor, I  
12 spoke to Lieberman, and I know that the  
13 information was conveyed to others, and I  
14 believe I might have directly conveyed it  
15 to Richard Rifkin. Eventually Pope -- I'm  
16 not sure about Pope. Eventually Nocenti  
17 knew about it, Maloney knew about it, and  
18 Rifkin knew about it.

19 Q. And they knew it came from  
20 Hermann?

21 A. Yes.

22 Q. Was there any discussion when  
23 you conveyed it to these people?

24 A. You know, I don't know whether I  
25 conveyed it to them or whether it was

1                   L. Constantine  
2   conveyed secondarily because the next day  
3   I took off for Madison, Wisconsin. There  
4   was some phone conversations, there may  
5   have been some e-mail traffic, but I don't  
6   know. I do know that certainly by within  
7   two days at least Richard Rifkin knew  
8   about it, at least Nocenti knew about it,  
9   and at least Maloney knew about it. I'm  
10  not sure that Pope ever did.

11         Q.     Mr. Constantine, you referred to  
12  the time period when you actually  
13  confronted Hermann.

14                 Was that before or after you met  
15  with the DA?

16         A.     It was after I met with the DA,  
17  well after. It was after a couple of sort  
18  of head fakes from people like Steve  
19  Krantz in the governor's office and Terryl  
20  Brown-Clemons, sort of like, you know,  
21  we've got your transcript, Lloyd, and you  
22  think this happened. They were sort of  
23  conveying to me that you made a leap  
24  there, Lloyd, and maybe you were wrong.

25                 I don't want to be wrong about

1                   L. Constantine  
2    this stuff and I didn't particularly want  
3    to be involved in this stuff, quite  
4    frankly. I was never asserting a  
5    complaint against anybody. This all  
6    happened because Hermann tells me this, I  
7    go to ethics counsel, ethics counsel  
8    directs the governor's office to then tell  
9    the DA, and then the DA opens an  
10   investigation. We never went to the DA  
11   and said, district attorney, you should be  
12   investigating the Integrity Commission for  
13   having no integrity. We were not looking  
14   to assert any kind of claim against  
15   anybody. We were directed by ethics  
16   counsel to tell the district attorney that  
17   we had come into possession of this  
18   information and how we had come into  
19   possession of this information and on his  
20   own initiative, the district attorney  
21   began, as I understand it, an  
22   investigation as to whether or not this  
23   constituted a violation of something. But  
24   neither I nor the chamber, while I was  
25   there, was trying to assert any kind of a

1 L. Constantine

2 claim against anybody.

3 Q. Mr. Constantine, after you  
4 conveyed the information to the people on  
5 November 1, you were with your daughter in  
6 Wisconsin on November 2. You know they  
7 met with the DA on November 2. And I  
8 think at that meeting, when they related  
9 to the DA they had come into information  
10 that they felt they should not have had,  
11 he called Teitelbaum.

12 Are you aware of that?

13 A. No, I'm not familiar with that.

14 Q. Did anybody ever tell you that  
15 the DA confronted Teitelbaum?

16 A. No, no. I do know that I was  
17 upstate with a group of my subordinates I  
18 believe in February and I got a phone call  
19 on my chamber Blackberry asking me for  
20 permission for my transcript, the  
21 transcript of my interview with the DA to  
22 be read to John Feerick or a copy of it to  
23 be provided to John Feerick. I was called  
24 by Terry Brown-Clemons and asked for  
25 permission. Because one of the things I

1                   L. Constantine  
2    said to the district attorney staff when I  
3    was interviewed is that I don't want my  
4    interview to be revealed to anybody  
5    without my permission and they obeyed  
6    that.  So they called me up and said, we  
7    want to read your transcript and provide a  
8    copy of your transcript to John Feerick.  
9    I said, when.  They said, now, he's  
10   sitting here.  I said, okay.  The only  
11   proviso is that you don't read portions of  
12   it, he has to hear the entirety of it.

13           Q.     When did the series of  
14   confrontations -- not confrontations,  
15   conversations take place where they said,  
16   Lloyd, you're a nice guy, didn't you make  
17   a mistake?

18           A.     They didn't say that but that  
19   was the inference.

20                   Those happened in the period I  
21   would say in the last two months in the  
22   governor's office meaning late  
23   February/early March and then March  
24   through April.  I stayed on -- after Eliot  
25   resigned, I stayed on for a few weeks to

1                   L. Constantine  
2    help the new governor transition and that  
3    was also a period when everything was in  
4    transition and during those crazy few  
5    weeks -- I work on the second floor,  
6    counsel's office is across the hall and I  
7    ran into Terryl and Steve Krantz a few  
8    times and I remember a couple of occasions  
9    where they sort of like raised their  
10   eyebrows at me in such a way that took the  
11   little bit of doubt that I had based upon  
12   that conversation with Hermann, which you  
13   have pegged to be roughly November 9, and  
14   then it started to be okay, you made an  
15   assumption which might have been  
16   counterfactual. So I had that little bit  
17   of doubt based upon that conversation on  
18   November 9 and then, after a conversation  
19   with Terryl or Steve, I had a little more  
20   doubt and then after another conversation  
21   with Terryl or Steve, I had a little more  
22   doubt and so eventually I called up  
23   Hermann and I said, hey, this is serious,  
24   people may get in trouble, so tell me what  
25   happened here. And that's the third thing

1 L. Constantine

2 that happened here.

3 I've got to go. I'm happy to  
4 come back, but I've got to go.

5 MS. OSTERER: Have you ever  
6 spoken to Mr. Hermann about the  
7 inspect general's investigation, this  
8 investigation?

9 THE WITNESS: I saw Mr. Hermann  
10 at a social event and I told him that  
11 the inspector general's office had  
12 called me and I told him I would be  
13 going in. I didn't tell him what I  
14 would be saying, I didn't ask him  
15 whether he had been called, but I told  
16 him, yes.

17 MS. OSTERER: Did he respond in  
18 any way?

19 THE WITNESS: No. He said he  
20 knew about the investigation.

21 Q. Do you know Stuart Jones?

22 A. No, I don't. I also told the  
23 counsel's office that I had been called.  
24 I called Terry and Steve. I assumed that  
25 they'd want documents from the chamber so

1                   L. Constantine  
2 I said whatever you send over to the  
3 inspector general please provide me with a  
4 copy of those.

5           Q.     Can you tell us again who  
6 specifically suggested that you may have  
7 made the wrong assumptions?

8           A.     The two people who inferred that  
9 were Terryl Brown-Clemons and Steve  
10 Krantz, both in the counsel's office.  
11 Terryl is the acting counsel to the  
12 governor and Steve is one of the deputies.  
13 They were involved in the responses to all  
14 these investigations as well.

15          Q.     When did those conversations  
16 take place?

17          A.     They took place in I would say  
18 the time frame of very late February to  
19 very early April. I believe I went in to  
20 talk to the district attorney in late  
21 February and so I would say that's  
22 probably a six or seven-week time period.  
23 Again, nobody said, hey, we got your  
24 transcript, Lloyd, you were wrong. But it  
25 was in the same way you asked me, did Mr.

1                   L. Constantine  
2   Hermann tell you that Teitelbaum told him?  
3   They sort of posed that question to me in  
4   a way that suggested -- it built upon the  
5   doubt which had been placed in my mind by  
6   virtue of that conversation that I had  
7   with Hermann on or about November 9.

8           Q.     You had no doubt when you  
9   testified before Soares.

10          A.     Except when I testified before  
11   Soares, as you see in my -- I can't  
12   remember exactly --

13          Q.     You said it never occurred to  
14   you.

15          A.     It never occurred to me until  
16   that later conversation with Hermann that  
17   placed a scintilla of doubt in my mind and  
18   I felt duty bound to testify to it.

19          Q.     Had you not had the  
20   conversations with the people from  
21   counsel's office, would that doubt ever  
22   have risen to this extent?

23          A.     I don't know, I don't know. I  
24   do know that it was a little bit here from  
25   the conversation with Hermann and then it

1                   L. Constantine  
2 was built upon by a subsequent  
3 conversation with Krantz or Terryl  
4 Brown-Clemons and then it was built on a  
5 little bit more by a third conversation  
6 with one or the other of those two lawyers  
7 and a combination of the three said, okay,  
8 call up Hermann before you make another  
9 error here.

10           Q.     It was clear that this was a  
11 leap, that it was just an assumption on  
12 your part?

13           A.     It was never explicit, it just  
14 was -- you know, I am an investigator  
15 myself. I'm someone who's conducted a few  
16 thousand depositions and so I am very  
17 sensitive to these issues and it's just  
18 built this doubt up in my head.

19           Q.     What business was it of theirs?

20           A.     I don't know. I don't know.  
21 The business of theirs is that they are  
22 the poor bastards who have to deal with  
23 all of this now and they are doing the  
24 best that they can.

25           MR. FISCH: I'll let you go. I

1 L. Constantine

2 appreciate you --

3 THE WITNESS: If you need me  
4 back, I'll come back.

5 MR. FISCH: I'm reminded in the  
6 situation you find yourself in, 1952  
7 when Adele Stevenson had the  
8 nomination to run against Eisenhower,  
9 he said in essence would that this cup  
10 had been passed to other hands.

11 THE WITNESS: I remember that  
12 election, too, and I remember thinking  
13 -- I went to a certain bank in Queens  
14 with my mother to vote and I thought  
15 there were two ballot boxes because  
16 one was an Eisenhower box and one was  
17 a Stevenson box and I knew my father  
18 was voting for Eisenhower and I knew  
19 my mother was voting for Stevenson.  
20 And, being a male chauvinist, when my  
21 mother went to vote for Stevenson, I  
22 threw myself at her legs and grabbed  
23 her and I said, Mommy, don't vote in  
24 the Stevenson box, vote in the  
25 Eisenhower box.

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(TIME NOTED: 11:32 a.m.)

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## CERTIFICATION BY REPORTER

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4

I, Wayne Hock, a Notary Public of the

5

State of New York, do hereby certify:

6

That the testimony in the within

7

proceeding was held before me at the

8

aforesaid time and place;

9

That said witness was duly sworn

10

before the commencement of the testimony,

11

and that the testimony was taken

12

stenographically by me, then transcribed

13

under my supervision, and that the within

14

transcript is a true record of the

15

testimony of said witness.

16

I further certify that I am not

17

related to any of the parties to this

18

action by blood or marriage, that I am not

19

interested directly or indirectly in the

20

matter in controversy, nor am I in the

21

employ of any of the counsel.

22

IN WITNESS WHEREOF, I have hereunto

23

set my hand this                      day of

24

, 2008.

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